

M 12-415

JAP:NR

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA

- against -

ROBERT ALESSI,

Defendant.

AFFIDAVIT AND COMPLAINT
IN SUPPORT OF AN ARREST
WARRANT

M. No. _____
(18 U.S.C. § 2252(a)(2))

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EASTERN DISTRICT OF NEW YORK, SS.:

Linh M. Phung, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation (the "FBI"), duly appointed according to law and acting as such.

On or about and between November 23, 2007 and February 6, 2008, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ROBERT ALESSI did knowingly receive and distribute any visual depiction, the production of such visual depiction having involved the use of one or more minors engaging in sexually explicit conduct and such visual depiction was of such conduct, using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce or which contains materials which have been mailed or so shipped or transported, by any means including by computer.

(Title 18, United States Code, Section 2252(a)(2)).

The source of my information and the grounds for my belief are as follows:¹

1. I have been a Special Agent of the FBI since 2006, and am currently assigned to the New York Office. Since January 2010, I have been assigned to the Crimes Against Children squad. I have been assigned to investigate violations of criminal law relating to the sexual exploitation of children. I have gained expertise in this area through training in classes and daily work related to conducting these types of investigations. As part of my responsibilities, I have been involved in the investigation of numerous child pornography cases and have reviewed thousands of photographs depicting children (less than eighteen years of age) being sexually exploited by adults. Through my experience in these investigations, I have become familiar with methods of determining whether a child is a minor. I am also a member of the Eastern District of New York Project Safe Childhood Task Force.

2. I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents, my training and experience, and discussions I have had with other law enforcement personnel concerning the creation, distribution, and proliferation of child pornography. Additionally, statements

¹ Because the purpose of this complaint is merely to establish probable cause to arrest, I have not set forth all of the facts and circumstances concerning this investigation of which I am aware.

attributable to individuals herein are set forth in sum and substance and in part.

THE FBI INVESTIGATION

3. On November 23, 2007, at approximately 6:32 a.m. CST, an FBI Special Agent, acting in an undercover capacity, went on the internet and signed into a Limewire P2P file sharing program. The undercover agent then conducted searches using terms consistent with images containing child pornography.

4. The undercover agent received a response from the IP address "72.229.127.196." The undercover agent was able to connect directly to the computer using this IP address and was able to obtain files that the user of the computer was sharing over the internet via Limewire. The list of files contained names that are consistent with images containing child pornography.

5. The undercover agent downloaded six images, a review of which showed that five of the images contained child pornography. Some of the images downloaded from the user using the IP address "72.229.127.196" include:

a. "pthc childlover p027.jpg" depicts a prepubescent female, approximately ten years old, exposing her vagina;

b. "lsm-pthc-lsp-uft-47.jpg" depicts a prepubescent female, approximately nine years old, performing oral sex on an adult male;

c. "lsm-pthc-lsv-ufo-012.jpg" depicts a

prepubescent female, approximately eleven years old, exposing her vagina;

d. "lsm-pthc-lsp-uft-54.jpg" depicts a prepubescent female, approximately ten years old, performing oral sex on an adult male; and

e. "lsm-pthc-lsp-uft-28.jpg" depicts a prepubescent female, approximately ten years old, exposing her vagina.

6. A subpoena issued to Time Warner Cable, Road Runner, indicated that the IP address "72.229.127.196," used on November 23, 2007 at 6:32 a.m. CST when the images described in paragraph 5 were downloaded, was registered to "KELEE ALESSI" at an address in Staten Island, New York (the "Staten Island Address").

7. On February 6, 2008, at approximately 7:34 a.m. CST, an agent acting in an undercover capacity again conducted a search on the internet via Limewire, using terms associated with child pornography. That search received a response from the IP address "72.229.127.196."

8. The undercover agent was able to download 17 images from the IP address "72.229.127.196." Upon further review, 11 of those 17 images were determined to contain images of child pornography.

9. Among the images downloaded from the IP address "72.229.127.196" were:

a. "lsm-pthc-lsp-uft-175.jpg" depicts a

prepubescent female, approximately ten years old, exposing her vagina; and

b. "lsm-pthc-lsp-uft-12.jpg" depicts a prepubescent female, approximately ten or eleven years old, performing oral sex on an adult male.

10. A subpoena issued to Time Warner Cable, Road Runner, indicated that the IP address "72.229.127.196" used on February 6, 2008 at 7:34 a.m. CST when the images described in paragraphs 8 and 9 were downloaded, was registered to Kelee Alessi at the Staten Island Address.

11. On April 15, 2008, Special Agents from the FBI executed a search warrant, issued on April 15, 2008 by Your Honor, at the defendant's residence, the Staten Island Address.

12. The defendant and his wife were present at the time when the search warrant was executed. Agents provided a copy of the search warrant and items to be seized to the defendant to read. The agents also informed the defendant that they were there to execute the search warrant and that neither he nor his wife were under arrest. The defendant was also told that any information he wanted to share with the agents was strictly voluntary and he did not have to speak to the agents if he did not wish to do so.

13. The defendant subsequently advised agents, in substance and in part, that he had lived at the Staten Island Address for approximately 7 years. He identified Kelee Alessi as his adult daughter, who lived in upstate New York.

14. The defendant stated that "anything he did on the computer was for [his] own private consumption." He admitted downloading images of child pornography and stated that no one else in his family knew of his activities. He indicated that he was the only individual living in the home with knowledge of the computers and that his wife did not know about his interest in viewing child pornography.

15. The defendant admitted actively searching on Limewire for CP images and videos and acknowledged using search terms associated with child pornography such as "LSV," "LSW," "LSG" and "PTHC." He stated that he believed "PTHC" meant "Pre-teen Hardcore" and that he had found numerous videos of child pornography using this term.

16. The defendant acknowledged downloading and saving images of girls under the age of 18 onto this computer, including images of female children as young as two years old. He indicated that he knew downloading these images is illegal.

17. The defendant also stated that he was familiar enough with the Limewire software to know that any files he had placed in his Limewire share folder were available for other individuals to retrieve. He stated that he did not leave images or videos containing child pornography in the share folder, but rather transferred the images and video to two external hard drives.

18. During the execution of the search warrant on or about April 15, 2008, agents seized a computer and two external hard drives from the Staten Island Address. A forensic

examination of the computer and two external hard drives revealed approximately 1,100 images and 60 videos of child pornography on the two external hard drives. Among those images and videos were the following:

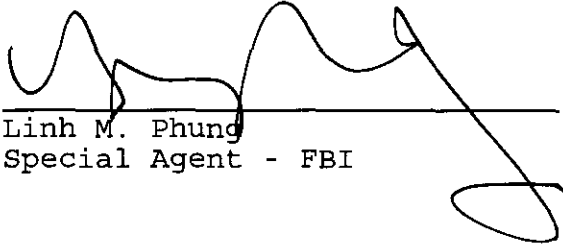
a. "Inna Private 4yo close-up anal] pedo pthc young girl child 5yo 6yo 7yo 8yo daddy incest fuck" is a 49 second video depicting a prepubescent girl who appears to be approximately four years old lying down and wearing no pants. There is an adult male spreading open the girl's vagina with his hand while penetrating the girl's anus with his erect penis. Then the adult male pulled out his penis and ejaculated on the girl;

b. "pthc_ptsc_9yo jenny in nylons and tied up" is an image depicting a prepubescent girl who appears to be approximately nine years old lying on a bed with her hands tied above her head and her legs are spread apart exposing her genitalia. Her legs are tied to her thighs. The girl is only wearing a collar around the neck and black thigh high stockings. The girl portrayed in this image has been identified by law enforcement and is a known victim;

c. "0_PTHC Childlover P011" is an image depicting a nude prepubescent girl who appears to be approximately three to four years old standing in the bathroom holding an erect penis;

d. "0_hel-1~52" is an image depicting a prepubescent girl who appears to be approximately five years old looking at the camera and holding an adult male's erect penis and the penis is in the girl's mouth.

WHEREFORE, your affiant respectfully requests that the Court issue an arrest warrant for the defendant ROBERT ALESSI so that he may be dealt with according to law.



Linh M. Phung
Special Agent - FBI

Sworn to before me this
25th day of April, 2012

LSKY